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## **Via E-Filing**

The Honorable Gregory M. Sleet  
United States District Court  
District of Delaware  
844 King Street  
Wilmington, DE 19801

**Re: Davis International LLC, et al., v. New Start Group Corp., et al.,**  
**Case No. 1482-GMS**

Dear Judge Sleet:

In accordance with Your Honor's instruction at the conclusion of the April 13, 2005 teleconference, I am herewith re-filing the Opening Brief in Support of Defendants' Motion to Dismiss the Complaint Pursuant to the Doctrine of Direct Estoppel and to Enjoin Plaintiffs from Re-Filing This Action ("Direct Estoppel Opening Brief"). With the exception of the date, it is identical to the brief electronically filed on March 31, 2005 as Supplement 1 to the Opening Briefs in Support of Defendants' Motion to Dismiss Complaint (D.I. 49).

I am also filing a document titled Exhibits to Opening Brief in Support of Defendants' Motion to Dismiss the Complaint Pursuant to the Doctrine of Direct Estoppel and to Enjoin Plaintiffs from Re-Filing This Action ("Exhibits"). The Exhibits are three documents previously included in the Appendix to Defendants' Opening Briefs in Support of Defendants' Motion to Dismiss ("Appendix") and the Affidavit of Charles M. Oberly, III Submitting Declarations in Support of Defendants' Motion to Dismiss ("Oberly Affidavit"). The documents are:

- |           |   |  |
|-----------|---|--|
| Exhibit 1 | - | Declaration of Lisa C. Cohen (attached as Exhibit 1 to Oberly Affidavit)   |
| Exhibit 2 | - | Complaint, A-1 – A-30 (contained in Appendix, Volume I)  |
| Exhibit 3 | - | First Amended Complaint, dated August 3, 2001, filed in <i>Base Metal Trading</i> , A-176 – A-294 (contained in Appendix, Volume II) |

Although the Direct Estoppel Opening Brief contains citations to certain other documents in the 13 volume Appendix and the Oberly Affidavit, the three documents being re-filed as Exhibits are the primary documents necessary for the Court's consideration of the direct estoppel issue, and I provide them separately for the convenience of the Court.

**Respectfully submitted,**

**/s/ Charles M. Oberly, III**

**CHARLES M. OBERLY, III (No. 743)**

CMO,III/bld

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